ORDER NO 96-021

ENTERED Jan. 12, 1996

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

CP 1, CP 14, CP 15

In the Matter of the Application of Electric Lightwave, Inc. for a Certificate of Authority to Provide Telecommunications Services in Oregon. (CP 1)	)	
In the Matter of the Application of MFS Intelenet of Oregon, Inc. for a Certificate of Authority to Provide Telecommunications Services in Oregon and Classification as a Competitive Telecommunications Provider. (CP 14)	)	ORDER
In the Matter of the Application of MCI Metro Access Transmission Services, Inc. for a Certificate of Authority to Provide Telecommunications Services in Oregon and Classification as a Competitive Telecommunications Provider. (CP 15)	)	

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DISPOSITION: APPLICATIONS GRANTED

The Applications

Docket CP 1: Electric Lightwave, Inc. On November 14, 1994, Electric Lightwave, Inc. (ELI) filed an application with the Commission for certification to provide telecommunications service in Oregon as a competitive provider. ELI seeks authority to provide intraexchange switched service in areas coextensive with the Lake Oswego, Milwaukie, Oak Grove, Oregon City, and Portland local exchanges of U S WEST Communications, Inc. (USWC), and the Beaverton, Gresham, Hillsboro, Sherwood, Stafford, and Tigard local exchanges of GTE Northwest, Incorporated. (GTE).

Docket CP 14: MFS Intelenet of Oregon, Inc. On December 14, 1994, MFS Intelenet of Oregon, Inc. (MFS), filed an application with the Commission for certification to provide telecommunications service in Oregon as a competitive provider. MFS seeks authority to provide intraexchange switched services in areas coextensive with the Burlington, Lake Oswego, Milwaukie, North Plains, Oak Grove, Oregon City, and Portland (local exchanges of USWC, and the Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard local exchanges of GTE.

Docket CP 15: MCI Metro Access Transmission Services, Inc. On December 20, 1994, MCImetro Access Transmission Services, Inc. (MCImetro) applied for authority to provide telecommunications service in Oregon as a competitive provider. MCImetro seeks to provide intraexchange switched telecommunications services in the Portland metropolitan area, including portions of Multnomah, Clackamas, and Washington counties. Service will be provided

in areas coextensive with the Lake Oswego, Milwaukie, Oak Grove, Oregon City, Portland exchanges of USWC, and the Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, and Stafford local exchanges of GTE.

The applications are described more fully in Appendix A.

Procedural Background

On January 26, 1995, dockets CP 1, CP 14, and CP 15 were consolidated for purposes of hearing and decision. Protests to the applications were filed by USWC, GTE, Oregon Cable Telecommunications Association (OCTA), Oregon Exchange Carriers Association (OECA), Oregon Independent Telephone Association (OITA), PTI Communications Inc. (PTI), Teleport Communications Group, Inc. (TCG), and Mr. R. Rose. Petitions to intervene were filed by AT&T Communications of the Pacific Northwest, Inc. (AT&T), McCaw Cellular Communications, Inc. (McCaw), MCI Telecommunications Corporation (MCI), Sprint Communications Company L.P. (Sprint), United Telephone Company of the Northwest (United), OCTA, and PTI. The Citizens' Utility Board (CUB) filed a notice of intervention. All petitions to intervene were granted.

On July 10-15, 1995, an evidentiary hearing was held in these matters in Salem, Oregon, before Samuel J. Petrillo and Ruth Crowley, Administrative Law Judges. Appearances were entered on behalf of ELI, MFS, MCImetro, GTE, USWC, AT&T, OCTA, OECA, OITA, Sprint, TCG, and the Commission Staff. Party representatives are listed in Appendix B.

On August 18, 1995, the parties submitted simultaneous briefs and the record was closed.

Statutory Basis

The telecommunications policy goals established by the Oregon Legislature and administered by the Commission are found in ORS 759.015. That statute provides:

> The Legislative Assembly finds and declares that it is the goal of the State of Oregon to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition. The commission shall administer the statutes with respect to telecommunications rates and services in accordance with this policy.

These applications to provide local exchange telecommunications services are filed pursuant to ORS 759.050, the "competitive zone law." Under ORS 759.050(2)(a), the Commission may:

> certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certified telecommunications utility, if the commission determines that such authorization would be in the public interest. For the purpose of determining whether such authorization would be in the public interest, the commission shall consider:
>
> (A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.

(B) The effect on competition in the local exchange telecommunications service area.

(C) The effect on access by customers to high quality innovative telecommunications service in the local exchange telecommunications service area.

(D) Any other facts the commission considers relevant.

Under ORS 759.050(2)(c), the Commission may establish reasonable conditions or restrictions on the certificates of telecommunications providers to provide local exchange service. Conditions may be imposed by the Commission at the time of issuance or thereafter.

* * *

CONCLUSION

The Commission has reviewed the record in these dockets in light of the factors required by ORS 759.050(2)(a). On consideration of those factors, the Commission concludes that it is in the public interest to grant the applications of Electric Lightwave, Inc., MFS Intelenet of Oregon, Inc., and MCI Metro Access Transmission Services, Inc., for authority to provide local telecommunications services in Oregon. The following USWC exchanges should be designated as competitive zones under the statute: Burlington, Lake Oswego, Milwaukie, North Plains, Oak Grove, Oregon City, and Portland. In addition, the following GTE exchanges shall be designated as competitive zones: Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard.

ORDER

IT IS ORDERED that:

1. The applications of Electric Lightwave, Inc., MFS Intelenet of Oregon, Inc., and MCI Metro Access Transmission Services, Inc., to provide local exchange telecommunications services in the service areas of USWC and GTE are in the public interest and are granted.

2. The following USWC exchanges are designated as competitive zones: Burlington, Lake Oswego, Milwaukie, North Plains, Oak Grove, Oregon City, and Portland.

3. The following GTE exchanges are designated as competitive zones: Beaverton, Forest Grove, Gresham, Hillsboro, Scholls, Sherwood, Stafford, and Tigard.

4. GTE and USWC shall offer ancillary services to the applicants as agreed in the Stipulation and set forth in this order. The applicants shall fulfill the conditions for 911 service stated in the Stipulation.

5. The applicants shall offer Enhanced 911 service as described in this order.

6. Compensation for the exchange of local and EAS traffic between the applicants and the LECs in the competitive zones shall be based on bill and keep arrangements for a period of not more than 24 months.

7. An industry work group shall be created to address interconnection compensation issues as described in this order.

a. The task of the work group shall be to formulate proposals for implementing a reciprocal interconnection rate structure applicable to all switched telecommunications traffic.

b. The interconnection compensation work group shall evaluate the need for reciprocal payments in a competitive environment that includes facilities based carriers as well as other types of telecommunication service providers.

c. The interconnection compensation work group shall examine the continued viability of existing EAS arrangements. The work group should consider the impact on rates and policy from the transition from bill and keep to interconnection compensation based on reciprocal payments.

d. Staff shall submit reports to the Commission every six months detailing the progress of the interconnection compensation work group.

e. The applicants, USWC and GTE shall conduct and submit periodic traffic studies of local and EAS traffic exchanged with other carriers. The first study shall be submitted within six months of the date of

this order. Additional studies shall be submitted every six months thereafter.

8. Existing local exchange boundaries and EAS routes established by the Commission shall apply to AECs as well as incumbents for the purpose of distinguishing between local and toll calling and for intercompany compensation, until otherwise ordered. AECs shall limit each of their NXX codes to a given exchange and establish rate centers in those exchanges that are proximate to existing LEC rate centers.

9. The applicants shall be permitted to interconnect with incumbent providers on the same terms and conditions that LECs have used to interconnect their telecommunications networks. Applicants shall not take any action that impairs the ability of the incumbent LECs to meet the service standards specified by the Commission.

10. USWC shall apply existing guidelines for assigning numbers to the AECs in a nondiscriminatory manner.

11. A work group shall be established to monitor database number portability issues, including the results of number portability trials in other states.

    a. The work group shall include the applicants, USWC, GTE,
    Staff, and other interested parties, including consumer groups, ILECs and competitive providers.

b. The work group shall submit periodic reports evaluating the progress of database portability trials and including recommendations regarding the timing and implementation of a database number portability solution. The first report shall be filed with the Commission no later than July 1, 1996.

12. Interim number portability shall be offered by allowing AECs to use RCF or DNRI technology. USWC and GTE shall file tariffs within 30 days from the date of this order offering both the RCF and DNRI functions at a price equal to TSLRIC. The tariffs may include a nonrecurring service provisioning charge, which should also be set at cost.

13. USWC and GTE shall receive pricing flexibility under ORS 759.050(5) once (a) applicants have received certificates of authority to provide local exchange service consistent with the terms of this order; (b) the Commission approves the tariffs filed by USWC and GTE in compliance with this order; *and* (c) Staff notifies the Commission that interconnection arrangements are in place and a mutual exchange of traffic exists between GTE and USWC and an authorized AEC.

14. Pursuant to ORS 759.050(2)(c), the applicants shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

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Made, entered, and effective Jan. 12, 1996.

SIGNED: Roger Hamilton
Chairman

SIGNED: Ron Eachus
Commissioner

SIGNED: Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-14-095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-13-070(2). A party may appeal this order to a court pursuant to ORS 756.580.